

**CITY OF EL CAJON
CITY COUNCIL POLICY**

SUBJECT: AFFIRMATIVE ACTION PLAN		POLICY A-17
REFERENCE: See Attachment 1	EFFECTIVE 4/2/96	PAGE 1 of 19

PURPOSE

The combined purposes of this plan shall be:

1. To demonstrate the commitment of the City of El Cajon to equal employment opportunity and to establish personnel policies regarding selection, transfer, promotion, termination, and compensation or other benefits such as Family and Medical Care Leave and Pregnancy Disability Leave that will not discriminate on the basis of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) and marital status.
2. To establish an affirmative action program dedicated to the improvement of minority employment, including women-owned and project area ("Section 3") businesses, of and among vendors doing business with the City of El Cajon.
3. To establish a policy of non-discrimination on the basis of disability status among City-sponsored programs, activities, benefits and services; and to establish a policy for administering auxiliary aids upon request of any disabled individual.
4. To continue the City's effort to realistically create an open community to all by affirmatively promoting a fair housing marketing program.

BACKGROUND

The City's responsibility as a public agency, in addition to participation in various State and Federal Grant programs, requires that it make specific efforts toward improving minority, women, disabled and other protected groups' participation in City functions. The following Affirmative Action Plan is designed to combine all related policies into one comprehensive document which will supersede the previous policies. Additionally, the equal employment opportunity portion of this document will complement the City's enforcement of the merit principles by assuring that all segments of the City of El Cajon have equal opportunity for employment based on open competition and advancement according to their ability to perform the job.

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POLICY 1: Equal Employment Opportunity (Re. City Employment)

It is the policy of the City of El Cajon to provide equal employment opportunities to all without regard to sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) or marital status. The City shall make every effort to ensure equal employment opportunities through Affirmative Action to all City employees and applicants for City employment in: administering hiring procedures; promotions; transfers; compensation; classification; training; terminations; and other rights, conditions and benefits of employment.

It is the policy of the City of El Cajon that discrimination, including harassment, based on an employee's or applicant's sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age (over 40) and marital status is prohibited.

I. Affirmative Action Goals in Employment

The goals of this program regarding employment opportunity/affirmative action are:

- A. to attempt to eliminate any disparity between the members of protected groups in the population and the relative number in City employment at all job levels. This will begin upon adoption of the Affirmative Action Plan and continue until the disparity is minimized, at all times taking the City's needs into account;
- B. to ensure the elimination of any form of discrimination in employment practices based on sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), marital status, or age (over 40) by reviewing and, if necessary, revising employment practices in recruitment, selection, transfer, promotion, training, compensation, lay-off, discipline and termination;

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- C. to provide a systematic procedure to analyze and evaluate the City's effectiveness in accomplishing these goals.

II. Implementation and Assignment of Responsibility

The City Manager, as Affirmative Action Officer, shall have the primary responsibility for coordination and administration of this Affirmative Action Program. Each department director will assume full responsibility for the implementation and success of the program with regard to hiring and advancement opportunity in their respective department.

A. The Affirmative Action Officer shall:

1. Be responsible for the administration and control of activities within the City and shall ensure full implementation of the City's Affirmative Action Program as it relates to employment, training, demotion, promotion, transfer and lay-off.
2. Encourage department directors' commitment to this program by assigning them responsibility for the program within their department.
3. Keep abreast of governmental regulations, legal interpretations and laws, equal employment legislation and Affirmative Action laws, and inform department directors and supervisors of significant changes or shifts of emphasis.
4. Receive and investigate complaints of alleged discrimination, including any referred by the Personnel Commission.
5. Submit an annual report in conjunction with Federal EEO-4 report to the City Council.

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6. Monitor placements, transfers, promotions, terminations and other pertinent statistical transactions of City employment practices on a regular basis to ensure that affirmative action is being supported.

B. The Director of Personnel shall:

1. Assist the City Manager in the administration and management of Affirmative Action Program.
2. Develop and implement internal and external communication procedures to disseminate policy, job announcements, and the City Affirmative Action Program to members of protected groups in the community and the City workforce.
3. Keep the City Council, City Manager, department directors and all supervisors abreast of the latest developments in the Equal Employment Opportunity/Affirmative Action area.
4. Serve as liaison between the City, government regulatory agencies, organizations and other community representatives who might assist in the recruitment of members of protected groups.

C. The Director of Finance shall:

1. Ensure that any contract or sub-contract of \$10,000 or more awarded by the City necessitate the contractor, or sub-contractor to verify compliance with mandated regulations as set forth by Executive Order 11246.
2. Require any vendor who receives business from the City in excess of \$10,000 to verify adherence to Affirmative Action guidelines as set forth in Executive Order 11246.

D. Each Department Director and Supervisor shall:

1. Be responsible for promoting the concepts and objectives of the City's Affirmative Action Program.

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<p>2. Be accountable for compliance with the City's Affirmative Action goals within their departments by actively monitoring their staff for opportunities to implement the City's Affirmative Action Program according to policies set forth.</p> <p>3. Ensure that all employees are aware of the Affirmative Action Program and that all employees understand their rights and responsibilities under the program. A copy of this policy statement shall be kept on file for employee reference.</p> <p>4. Ensure that all supervisory staff provide fair treatment to all employees regardless of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) and marital status.</p> <p>5. Provide the City Manager and/or the Director of Personnel with any assistance necessary to guarantee success of this program.</p> <p>E. The Personnel Commission shall:</p> <p>1. Act as an appeals body to hear violations regarding this Affirmative Action Program with respect to City employees or applicants for City employment.</p> <p>2. Review any matter referred to them by the City Council regarding Equal Employment Opportunity and Affirmative Action policies.</p> <p>3. Review and recommend changes to update Equal Employment Opportunity and Affirmative action policies in accordance with the objectives of the program.</p> <p>4. Refer any complaints of alleged discrimination to the Affirmative Action Officer, City Manager, for review.</p>		

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III. Employment Practices

A. Recruitment

1. Advertise employment opportunities effectively through the use of mailing lists, bulletin boards, periodicals and radio as necessary to ensure that protected group members are informed of City employment opportunities.
2. Publish recruitment literature in a second language, if it is necessary as determined by the Director of Personnel.
3. Identify the City as an equal opportunity employer in all correspondence and recruiting literature. This also includes non-discrimination with regard to disability.
4. Screen and review any recruitment material used to attract potential job applicants for language or photographs that imply discrimination toward protected groups.
5. Expand recruitment beyond the boundaries of the City when deemed necessary to perform more effective outreach in the area of equal employment opportunity.

B. Selection

1. Review job specifications to ensure they accurately describe the duties and responsibilities of the job and that the minimum qualification standards are job related.
2. Analyze written employment tests to determine their validity and reliability relative to the job.
3. Utilize performance tests, especially in those occupational categories where demonstrated ability is the prime job requirement.
4. Focus interviews on job-related qualifications and background.

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5. Include protected group members with relevant job and experience qualifications on oral examination boards and rating panels whenever possible.
6. Provide training in legal interviewing techniques to employees who conduct employment interviews.
7. Utilize job related medical standards in pre-employment screening, placement and modified work procedures.

C. Development, Promotion and Transfer

1. Review and analyze the entire career advancement process to determine whether any artificial barriers exist for members of protected groups who wish to advance their careers with the City.
2. Specific encouragement will be given to minority, female and disabled employees to seek advancement through the development of knowledge, skills and abilities in the administrative, professional and supervisory areas necessary for promotion.
3. Qualification requirements for higher level job classifications shall be job-related. Promotion requirements will not place undue emphasis on non-merit factors (e.g. seniority).

D. Training

1. Provide education and training opportunities to encourage all qualified employees, including members of protected groups, to actively seek promotion.
2. Managers and supervisors shall receive in-service training in topic areas such as human relations and potential work situation conflicts that may arise due to ethnic, cultural or socio-economic differences as well as similarities of all groups within the City's workforce.

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3. Encourage all qualified City employees, including protected groups, to make use of tuition reimbursement programs and to make appropriate information available.

IV. Dissemination of Information

A. Internal

1. The policy of Equal Employment Opportunity and Federal and State notices of Equal Employment/Affirmative Action opportunity shall be posted on all City bulletin boards.
2. The Equal Employment Opportunity Clause statement: "Equal Employment Opportunity/Affirmative Action Employer" shall be placed on all position announcements as well as a statement regarding non-discrimination based on disability.
3. Progress reports of the City's Affirmative Action Program shall be made available to all department directors for discussion within their departments.
4. Each current employee will receive sexual harassment policy information via dissemination of the Department of Fair Employment and Housing's pamphlet "Sexual Harassment is Forbidden by Law" and new employees will receive the pamphlet upon hire.

B. External

1. All recruiting sources used by the City, (such as minority organizations, community agencies and other interested persons), shall be notified of the City's Equal Employment Opportunity Policy and Affirmative Action Program.
2. Pamphlets concerning selection criteria, placements, application information and other literature aimed at assisting prospective employees shall be available in a second language, if it is necessary, as determined by the Director of Personnel.

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3. The City's EEO policy statement shall be distributed to all applicants for employment, vendors and other relevant entities doing business with the City.

4. This policy statement shall also be included as part of the employment orientation briefing.

V. Periodic Audit and Evaluation

A. The auditing process will be instituted by the Personnel Department to effectively monitor the Affirmative Action Plan.

B. All departments shall cooperate with the Personnel Department in furnishing reports and in monitoring the progress of Affirmative Action in their respective departments. The Personnel Department shall furnish progress reports to the City Manager.

C. Records of all new hires, transfers, promotions and terminations shall be maintained in the Personnel Department by race, sex and age.

D. The City shall conduct a utilization analysis of the City workforce each year. The purpose of this analysis shall be to determine where minorities are employed in proportion to their relative representations in the area and area workforce.

1. Applicants shall be monitored through a tracking system designed to determine sex, race, residence and source of referral for the position.

2. The City shall attempt to obtain current data reflecting the percentages of members of protected groups in the area population and labor force.

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3. The City shall review the current percentages of members of protected groups in the area population and workforce with EEO-4 specified occupational and salary categories within the City workforce. Those occupational and salary categories in which the representation of protected groups is below the population and labor market shall be considered areas of under-utilization.

4. The extent of under-utilization present in each category shall serve as the basis for the Personnel Director's analysis and modification of existing personnel policies, practices and procedures. The Director of Personnel shall consider as top priority for analysis and possible modification those personnel policies, practices and procedures which affect the selection of employees for those occupational categories in which it is determined the protected groups are most under-utilized.

E. The Affirmative Action Program itself shall be reviewed annually to establish new objectives for the coming year.

VI. Appeal

A. An appeal may be brought before the City's Personnel Commission if an employee or applicant for employment feels they have been a victim of discrimination.

B. Employees who feel they have been a victim of discrimination on the basis of disability may also appeal to the Personnel Commission.

**POLICY 2: Affirmative Action in the Employment of Contractors
(External Employment)**

1. When State or Federal Law mandates advertising for bids, the City of El Cajon Affirmative Action Plan shall require contractors who are awarded City contracts for construction, alteration, maintenance or demolition, their subcontractors and suppliers to take affirmative action to improve employment of racial and ethnic minorities in the construction industry.

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In order to comply, each contractor awarded a construction contract by the City of El Cajon shall agree to the following condition:

- A. The Contractor will not willfully discriminate against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) and marital status. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) and marital status. Such action shall include, but not be limited to: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; Family and Medical Care Leave and Pregnancy Disability Leave; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the awarding authority setting forth the provisions of this Affirmative Action Program.
- B. The Contractor will permit access to records of employment, employment advertisements, application forms and other pertinent data and records by the awarding authority or any other appropriate agency designated by the awarding authority, for the purposes of investigation to ascertain compliance with this Plan.
- C. A finding of willful violation of this Affirmative Action Program shall be regarded by the awarding authority as a basis for determining the contractor to be: not a "responsible bidder" as to future contracts for which such contractor may submit bids; for revoking the contractor's pre-qualification rating, if any; and for refusing to establish, re-establish or renew a pre-qualification rating for the contractor.
- D. The Contractor agrees that should the awarding authority determine that the contractor has not complied with this, then

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pursuant to Labor Code Sections 1735 and 1775, the contractor shall, as a penalty to the awarding authority, forfeit, for each calendar day, or portion thereof, for each person who was denied employment as a result of such non-compliance, the penalties provided in the Labor Code for violation of prevailing wage rates. Such monies may be recovered from the contractor. The awarding authority may deduct any such damages from any monies due the contractor from the awarding authority.

- E. Nothing contained in this policy shall be construed in any manner or fashion so as to prevent the awarding authority of the state or Federal governing agency from pursuing any other remedies that may be available by law.
- F. Nothing contained in this policy shall be construed in any manner or fashion so as to require or permit the hiring of an employee not permitted by the National Labor Relations Act.
- G. Prior to award of the contract, the contractor shall certify to the awarding authority that he/she has met or will meet the following standards for affirmative compliance, which shall be evaluated in each case by the awarding authority:
 - 1. The contractor shall provide evidence, as required by the awarding authority, that all supervisors, former and other personnel directors have been notified of the content of the anti-discrimination clause and their responsibilities under it.
 - 2. The contractor shall provide evidence, as required by the awarding authority, that he/she has notified all sources of employee referrals (including unions, employment agencies, advertisements, Department of Employee Development) of the content of the anti-discrimination clause.
 - 3. Personally, or through a designee, the contractor shall, through negotiations with the unions and with whom he/she has agreements, attempt to develop an agreement which will:
 - a. Spell out responsibilities for non-discrimination in hiring, referral, upgrading and training.

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b. Otherwise implement an affirmative anti-discrimination program in terms of the unions' specific areas of skill and geography to the end that qualified minority workers will be available and given an equal opportunity for employment.

4. The contractor shall notify the contracting agency of opposition to the anti-discrimination clause by individuals, firms, or organizations during the period of its requalification.

H. The City Manager or designee shall be the Contract Compliance Officer.

II. It shall be the policy of the City of El Cajon to implement the following specific affirmative action steps directed at increasing the utilization of business concerns located within the community service area or owned by community service area residents:

A. To identify eligible business concerns for CDBG - assisted contracts through the Chamber of Commerce, the Citizen's Assistance Office, project area committees, citizen advisory boards, and all other appropriate referral sources.

B. To maintain a list of eligible business concerns for utilization in CDBG-funded procurements, to ensure that all appropriate project area business concerns are notified of pending contractual opportunities, and to make available this list for general City procurement needs.

C. To ensure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, in a Section 3 covered project area.

D. To appoint the City Manager or designee as the responsible officer for implementing this Section 3 plan.

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POLICY 3: Non-discrimination on Basis of Disability (Citizen Access to City Programs)

For the purpose of the following policies, a "qualified disabled person" shall mean a disabled person who, regardless of the disability, meets all requirements for participation in the specific, applicable program. "Auxiliary Aid" shall refer to brailled and taped material, interpreters, and/or other applicable aids for persons with impaired hearing or vision.

I. City staff shall make every effort to comply with the following procedures:

- A. For any qualified disabled individual not able to receive delivery of a City service through ordinary means because of a physical disability, an alternative means of program access shall be made available.
- B. Any individual who is not able to obtain access to, or information about, any City service and/or program due to communication impairment, shall receive access through the use of auxiliary aids (upon their request).
- C. Every provision shall be made to ensure reasonable accommodation is given to qualified employees who may need adaptive aids and services to enable them to perform the duties for which they were hired.
- D. The following Grievance Procedure shall be used for prompt and equitable resolution of all allegations of discrimination on the basis of disability by persons applying for or using City services; however, this procedure will not preclude the use of other grievance mechanisms established under law.

II. Grievance Procedure (Section 504; Rehabilitation Act) (For citizen use)

The City of El Cajon has adopted this internal grievance procedure to provide for prompt and equitable resolution of complaints

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alleging any action prohibited by the Office of Revenue Sharing's (ORS) regulations (31 C.F.R. 51.55 (d)(2) implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). Section 504 states, in part, that "no otherwise qualified handicapped individual. . .shall solely, by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. . .".

This procedure is designed for allegations of unlawful discrimination other than those pertaining to employment. Complaints from employees and applicants regarding discrimination on the basis of disability regarding employment, should be processed through the Personnel Commission.

Complaints should be addressed to: Director of Personnel, El Cajon City Hall, 200 East Main Street, El Cajon, CA 92020, (619) 441-1736, who has been designated to coordinate Section 504 compliance efforts.

- A. A complaint should be filed to any supervisor, manager or the Personnel Department staff. Persons needing assistance may receive such assistance from the Personnel Department.
- B. A complaint should be filed within fourteen (14) days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination occurring before this grievance procedure was initiated will be considered on a case-by-case basis.)
- C. An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation will be conducted by the department director referenced in the complaint or by his/her designee. This procedure contemplates informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

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- D. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by the referenced department director and copies forwarded to the complainant and the coordinator no later than twenty days after complaint is filed.
- E. The Personnel Department shall maintain the files and records of the City relating to the complaints filed.
- F. The complainant can request a reconsideration of the case in instances where he/she is dissatisfied with the resolution. The request for reconsideration should be made within fourteen (14) days and should be directed to the Director of Personnel.
- G. The Director of Personnel may elect to investigate further or to make a decision on the basis of the written information provided by the complainant and the respondent. The Coordinator's determination shall be forwarded to the complainant no later than twenty days after receiving the request for reconsideration.
- H. The right of a person to a prompt and equitable resolution of the complaint filed shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the Office of Revenue Sharing, U.S. Department of the Treasury. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.

These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that the City of El Cajon complies with Section 504 and the ORS regulations.

III. Notice to the public of non-discrimination on the basis of disability shall be a continuous process.

IV. Auxiliary Aids

- A. It is the policy of the City to provide auxiliary aid for any individual who is not able to obtain access to, or information

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about, City service(s) and/or program(s) because of a communication impairment.

- B. If a person of disabled status needs auxiliary aids for attendance at public meetings or for information about City policies, procedures or activities, the individual must file a request for such aid with the appropriate department, at least ten (10) days prior to the event.
- C. Department Directors shall be responsible for securing the necessary auxiliary aids.

POLICY 4: Affirmative Action in Fair Housing Marketing

It is the policy of the City of El Cajon to promote fair housing marketing for all persons regardless of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) or marital status. The City shall make every effort to ensure fair housing marketing and create an open community to all persons.

- I. Affirmative Action Goals for Fair Housing Marketing are as follows:
- A. To promote the availability of safe and sanitary housing for all persons regardless of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) or marital status.
 - B. To encourage housing availability for low and moderate income families combined with other income groups.
 - C. To encourage the dissemination of information to minorities regarding developed housing on an equal opportunity basis.
 - D. To encourage all developers and/or owners of single and multiple dwelling units to promote and encourage equal housing for all persons.

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II. The City will take the following steps to establish a community-wide approach to affirmative fair housing marketing:

- A. Encourage developers and owners to adopt an affirmative fair housing marketing program that will attract buyers and tenants of all minority and non-minority groups.
- B. Encourage developers to maintain a non-discriminatory personnel hiring policy.
- C. Encourage developers and owners, if advertising in the media, to indicate housing availability to all persons regardless of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) or marital status.
- D. Encourage developers and owners to display in all offices in which sale or rental activity occurs, the U.S. Department of Housing and Urban Development (HUD) - approved Fair Housing Poster and include in any printed material used in connection with sales or rentals one of the following three items:

- 1. Equal Housing Opportunity logo:



Equal Housing
Opportunity

- 2. Equal Housing Opportunity statement:

"We are pledged to the letter and spirit of U.S. policy for achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising

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and marketing program in which there are no barriers to obtain housing because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (Cancer), age (over 40) or marital status.

- E. The City Community Development Department will provide a copy of this Affirmative Action Program to all owners and developers who apply for a building permit.
- F. Appoint the City Manager or designee as the responsible officer for implementation and maintenance of this Affirmative Fair Housing Marketing Policy.

GENERAL CONDITION

This policy further provides that any resulting changes to previously established City policies, procedures and/or rules affecting wages, hours or other terms and conditions of employment, shall be subject to the meet and confer requirements of State law.